

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

JAMES L. DEAN, Plaintiffs, vs. COUNTY OF GAGE, NEBRASKA, a Nebraska political subdivision, et. al; Defendants.	4:9CV3144 MEMORANDUM AND ORDER
CARROLL T. WHITE, as Personal Representative of the Estate of Joseph White, deceased; Plaintiffs, vs. COUNTY OF GAGE, NEBRASKA, a Nebraska political subdivision, et. al; Defendants.	4:9CV3145
KATHLEEN A. GONZALEZ, Plaintiff, vs. COUNTY OF GAGE, NEBRASKA, a Nebraska political subdivision, et. al; Defendants.	4:9CV3146
THOMAS W. WINSLOW, Plaintiff, vs. COUNTY OF GAGE, NEBRASKA, a Nebraska political subdivision, et. al; Defendants.	4:9CV3147
ADA JOANN TAYLOR, Plaintiff, vs. COUNTY OF GAGE, NEBRASKA, a Nebraska political subdivision, et. al; Defendants.	4:9CV3148
DEB SHELDEN, Plaintiff, vs. COUNTY OF GAGE, NEBRASKA, a Nebraska political subdivision, et. al; Defendants.	4:11CV3099

A hearing was held today on the defendants' Motion to Exclude Reena Roy as an Expert Witness, (Filing No. 172), Plaintiffs' Motion to Compel Production of Documents, (Filing No. 176), and Plaintiffs' Joint Motion Ruling on Sufficiency of objections to requests for admission, (Filing No. 187).

In addition to the evidence filed of record, the parties explained during the hearing that a trial deposition of Dr. Reena Roy was taken after the defendants' motion to exclude was filed, Dr. Roy provided no opinion testimony on DNA testing during that trial deposition, and the plaintiffs do not intend to elicit opinions from Dr. Roy on the issue of DNA testing during the trial of this case.

Based on the evidence of record and the representations of counsel during the hearing,

IT IS ORDERED:

- 1) In accordance with the representations of plaintiffs' counsel:
 - a. The plaintiffs are precluded from offering any opinions held by Dr. Reena Roy concerning DNA testing or the results of that testing in 2008 during the trial of this case. Defendants' Motion to Exclude Reena Roy as an Expert Witness, (Filing No. 172), is therefore denied.
 - b. Although counsel agreed to raise all objections during Dr. Roy's trial deposition testimony, that deposition was taken prior to the entry of this order. Therefore, any objection that Dr. Roy's trial deposition testimony exceeds the scope of this ruling was not waived by defendants' failure to raise that objection during the deposition. The defendants remain able to object to Dr. Roy's statements regarding DNA in response to the plaintiffs' pretrial designation of Dr. Roy's deposition testimony for use at trial.
- 2) The plaintiffs' motion to compel, (Filing No. 176), is granted, and
 - a. On or before September 26, 2013, the defendants shall produce to the plaintiffs the complete personnel files maintained by the Gage

County Sheriff for Burdette Searcey, Gerald Lamkin, Jerry DeWitt and Wayne Price from 1990 through the period of each individual defendant's employment with the Sheriff.

- b. The personnel files of Burdette Searcey, Gerald Lamkin, Jerry DeWitt and Wayne Price shall not be disclosed to anyone other than the parties in the above-captioned cases and their counsel. If such documents are to be offered in support of a motion, the parties shall move to file them as restricted access documents and provisionally file them as such pending an order of the court.
- 3) The Plaintiffs' joint motion ruling on sufficiency of objections to requests for admission, (Filing No. 187), is granted, and
 - a. The defendants' relevancy objections to plaintiffs' Requests for Admission (2d Set), (4:09CV3144, Filing No. 189-4), are overruled.
 - b. On or before September 26, 2013, the defendants shall answer each question posed in the plaintiffs' Requests for Admission (2d Set).
- 4) The clerk shall enter this order as a spread text order for the above-captioned cases.
- 5) At the request of Judge Kopf, the clerk shall order an expedited transcript of the hearing held today.
- 6) Any objection to this memorandum and order shall be filed no later than September 26, 2013.

September 12, 2013.

BY THE COURT:

s/ Cheryl R. Zwart
United States Magistrate Judge